

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Adopted and Filed

Rule making related to five-year review of rules

The Iowa Public Employees' Retirement System (IPERS) hereby amends Chapter 4, "Employers," Chapter 5, "Employees," Chapter 13, "Disability for Regular and Special Service Members," Chapter 14, "Death Benefits and Beneficiaries," and Chapter 16, "Domestic Relations Orders and Other Assignments," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 97B.4 and 97B.15.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 97B.

Purpose and Summary

This rule making conforms rules with other rules and statutes or rescinds rules that are outdated, are redundant or inconsistent, or are no longer in effect to meet the requirements of the statutory five-year review of rules for Chapters 21 to 33; implements contribution rates for all classes of members; clarifies that all Regents institutions are covered by subrule 5.2(40), as universities also have optional coverage; allows IPERS to initiate investigations of suspected fraud in disability claims under Iowa Code section 97B.50A as amended by 2021 Iowa Acts, Senate File 342, sections 28 and 29, even in the absence of a written complaint; aligns subrule 13.2(14) with Senate File 342, enacted in the 89th General Assembly and subsequently signed by the Governor; reinstates rule 495—14.17(97B), inadvertently deleted in a prior rule making; provides a process for successor alternate payees to disclaim their benefit; and clarifies signature requirements for the mandatory Administrative Rule Compliance and Confidential Information forms accompanying Qualified Domestic Relations Orders.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 29, 2021, as **ARC 6117C**. A public hearing was held on January 24, 2022, at 10 a.m. at IPERS, 7401 Register Drive, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by IPERS on February 3, 2022.

Fiscal Impact

IPERS' enabling legislation requires that employer and employee contribution rates for each member class be updated every fiscal year.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition IPERS for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on March 30, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subrules 4.6(1) to 4.6(3) as follows:

4.6(1) Contribution rates for regular class members.

a. No change.

b. Effective July 1, 2012, and every year thereafter, the contribution rates for regular members shall be publicly declared by IPERS staff no later than the preceding December as determined by the annual valuation of the preceding fiscal year. The public declaration of contribution rates will be followed by rule making that will include a notice and comment period and that will become effective July 1 of the next fiscal year. Contribution rates for regular members are as follows.

	Effective July 1, 2017	Effective July 1, 2018	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022
Combined rate	14.88%	15.73%	15.73%	15.73%	15.73%	15.73%
Employer	8.93%	9.44%	9.44%	9.44%	9.44%	9.44%
Employee	5.95%	6.29%	6.29%	6.29%	6.29%	6.29%

4.6(2) Contribution rates for sheriffs and deputy sheriffs are as follows.

	Effective July 1, 2017	Effective July 1, 2018	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022
Combined rate	18.76%	19.52%	19.02%	18.52%	18.02%	17.52%
Employer	9.38%	9.76%	9.51%	9.26%	9.01%	8.76%
Employee	9.38%	9.76%	9.51%	9.26%	9.01%	8.76%

4.6(3) Contribution rates for protection occupations are as follows.

	Effective July 1, 2017	Effective July 1, 2018	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021	Effective July 1, 2022
Combined rate	16.40%	17.02%	16.52%	16.02%	15.52%	15.52%
Employer	9.84%	10.21%	9.91%	9.61%	9.31%	9.31%
Employee	6.56%	6.81%	6.61%	6.41%	6.21%	6.21%

ITEM 2. Amend subrule 5.2(40) as follows:

5.2(40) Employees of area community colleges and universities shall be covered unless they elect coverage under an alternative system pursuant to a one-time irrevocable election. An employee must

make an election in the alternative retirement system within 60 days of the employee's first day of employment.

ITEM 3. Amend rule 495—13.2(97B) as follows:

495—13.2(97B) Disability claim process for special service members. Except as otherwise indicated, this rule shall apply only to disability claims initiated under Iowa Code section 97B.50A. Except as otherwise indicated, disability claims under Iowa Code section 97B.50(2) shall be administered under rule 495—13.1(97B).

13.2(1) to 13.2(10) No change.

13.2(11) *Notice of abuse of disability benefits.* The system has the obligation and full authority to investigate allegations of abuse of disability benefits. The system, in its sole discretion, may initiate investigations in the absence of a complaint. The scope of the investigation to be conducted shall be determined by the system; and may include the ordering of a sub rosa investigation of a disability recipient to verify the facts relating to an alleged abuse. A sub rosa investigation shall only be considered upon receipt and evaluation of an acceptable notice of abuse. The notification must be in writing and include:

a. to c. No change.

IPERS may employ such investigators and other personnel, in IPERS' sole discretion, as may be deemed necessary. IPERS may also, in its sole discretion, decline to carry out such investigations if more than five years have elapsed since the date of the disability determination.

13.2(12) and 13.2(13) No change.

13.2(14) *Offset to allowance.* A member who retires under Iowa Code section 97B.50A shall have benefits reduced by other disability-related payments the member receives for the same disability, including, but not limited to, benefits from:

a. Social security.

b. Long-term disability insurance.

c. Workers' compensation, subject to the limitations set forth in Iowa Code section 97B.50A(5) "b" and "c."

d. Unemployment insurance.

e. Employer-paid disability plans, programs, or policies.

f. Other laws.

For purposes of calculating the income offsets required under Iowa Code section 97B.50A, IPERS shall convert any lump sum workers' compensation award, disability insurance payments, or similar lump sum awards for the same illnesses or injuries to an actuarial equivalent, as determined by IPERS. IPERS shall convert any monthly, weekly, or other stated period workers' compensation award, disability insurance payments, or other awards for the same illnesses or injuries, dollar-for-dollar, to the same monthly, weekly, or other stated period, as determined by IPERS.

ITEM 4. Adopt the following **new** rule 495—14.17(97B):

495—14.17(97B) Procedures for final distribution to heirs who have filed claims. If a claimant has identified other persons in the claimant's group who would be entitled to a share of the member's death benefit, but such persons have not filed a claim within five years after the member's death, or by the date required under IRC Section 401(a)(9) if earlier, the remainder of the member's death benefit shall be paid in pro rata shares to the claimants who were previously paid a share of the death benefit. In order to comply with the applicable IRS limitations, the final payments under this rule shall be made by December 31 of the fifth year that begins after the member's date of death, or by December 31 of the year that distribution is required under IRC Section 401(a)(9), if earlier. The sole recourse of any claimant who is a member of a group receiving payments hereunder or of any lower-numbered group that should have received all of such payments shall be against the claimants of the group that received death benefit payments.

This rule is intended to implement Iowa Code sections 97B.44 and 97B.52.

ITEM 5. Amend subrule 16.2(3) as follows:

16.2(3) Administrative provisions.

a. to d. No change.

e. A named successor alternate payee may waive current or future rights to payments to which the successor alternate payee would have otherwise been entitled. The funds waived by a successor alternate payee shall revert to the member. The waiver of rights shall occur prior to the receipt of any payment from IPERS to the successor alternate payee and shall be in the form of a filed and signed court order. The waiver of rights by a successor alternate payee is binding and shall serve to indemnify IPERS from all liability to beneficiaries, heirs, or other claimants for any waiver executed by a successor alternate payee. The waiver must be received by IPERS no later than nine months after the date of death of the alternate payee or the date on which the successor alternate payee reaches age 21, whichever occurs later.

~~*e. f.*~~ An alternate payee shall not receive a share of dividends or other cost-of-living increases, unless so provided in a QDRO.

~~*f. g.*~~ The CEO, or CEO's designee, shall have exclusive authority to determine whether a domestic relations order is a QDRO. A final determination by the CEO, or CEO's designee, may be appealed in the same manner as any other final agency determination under Iowa Code chapter 97B.

~~*g. h.*~~ A person who attempts to make IPERS a party or requires IPERS to appear as a witness to a domestic relations action in order to determine an alternate payee's right to receive a portion of the benefits payable to a member shall be liable to IPERS for its costs and attorney's fees.

~~*h. i.*~~ A domestic relations order shall not become effective until it is approved by IPERS. If a member is receiving a retirement allowance at the time a domestic relations order is received by the system, the order shall be effective only with respect to payments made after the order is determined to be a QDRO. Payment to the alternate payee will be withheld from the member's payment the month the alternate payee's application is mailed by IPERS. If the member is not receiving a retirement allowance at the time a domestic relations order is approved by IPERS and the member applies for a refund or monthly allowance, or dies, no distributions shall be made until the respective rights of the parties under the domestic relations order are determined by IPERS. If IPERS has placed a hold on the member's account following written or verbal notification from the member, member's spouse, or legal representative of either party of a pending dissolution of marriage, and no further contacts are received from either party or their representatives within the following one-year period, or IPERS has not received and qualified a domestic relations order, IPERS shall release the hold.

~~*i. j.*~~ IPERS and its staff shall have no liability for making or withholding payments in accordance with the provisions of this rule.

~~*j. k.*~~ IPERS has no duty or responsibility to search for alternate payees. Alternate payees must notify IPERS of any change in their mailing addresses. IPERS shall mail the alternate payee an application once an application for a distribution has been received from the member and considered a complete application by IPERS. For monthly benefit applications, the alternate payee is eligible for monthly payments as of the member's first month of entitlement.

~~*k. l.*~~ If a QDRO requires the member to select an option with joint and survivor provisions (Option 4 or 6) and name the alternate payee as contingent annuitant, the order must state the percentage in Option 4 or 6 to be payable to the alternate payee as contingent annuitant (the currently available percentages under Option 4 or 6 are 25, 50, 75 and 100 percent). Acceptable birth proof for the alternate payee as the named contingent annuitant, pursuant to 495—subrule 11.1(2), must also be provided to IPERS prior to approval of the order by IPERS.

~~*l. m.*~~ For both lump sum and monthly payments, the alternate payee's tax withholding and rollover elections, if eligible, must be received before the first or current month's benefit is certified for payment or IPERS will use the applicable default tax withholding elections.

~~*m. n.*~~ If an order that is determined to be a QDRO divides a member's account using a service factor formula and the member's IPERS benefits are based on a number of quarters less than the member's total covered quarters, notwithstanding any terms of the order to the contrary, IPERS shall limit the number of quarters used in the numerator and the denominator of the service fraction to the number of quarters actually used in the calculation of IPERS benefits, not to exceed 120 quarters for special service members

and 140 quarters for regular and hybrid members. IPERS will not accept or administer a service factor formula fraction in excess of 1.

~~h.~~ o. Service credit that is purchased during the period when the member is married to the alternate payee shall be added to the numerator and the denominator of the service fraction when calculating the service factor pursuant to a domestic relations order. Service credit that is purchased during a period when the member is not married to the alternate payee shall only be added to the denominator of the service fraction when calculating the service factor pursuant to a domestic relations order. Under no circumstances shall the number of quarters in the denominator be more than the number of quarters used to calculate the member's benefit. Service purchase after retirement shall not increase or decrease the alternate payee's payment amount that was deducted and was payable at the time of retirement.

~~o.~~ p. The parties or their attorneys in a dissolution action involving an IPERS member shall decide between themselves which attorney will submit a proposed domestic relations order to IPERS for review. ~~IPERS shall not review a proposed order that has not been approved as to form by both parties or their counsel by enclosure of the Administrative Rule Compliance for QDROs form.~~ With the initial submission of an order for review, drafters must also submit a completed, signed, and dated Confidential Information (CI) form; in addition, every draft order submitted for review must be accompanied by a freshly signed and dated Administrative Rule Compliance for QDROs (ARC) form. Both the member and alternate payee, or their respective counsel, must sign and date the ARC form. Both forms must be wet signed; however, attorneys or pro se filers may sign with their electronic (eFile or EDMS) signatures. A rejection under this paragraph shall not preclude IPERS from placing a hold on a member's account until the status of a proposed order as a QDRO is resolved or the hold is released pursuant to the terms of paragraph ~~16.2(3) "h."~~ 16.2(3) "i."

~~p.~~ q. If a member has filed for and is receiving monthly pension benefits, or wishes to file an application for retirement or a refund and has a qualified domestic relations order pending on the member's account, the parties (the member and the alternate payee or their counsel of record) may execute a waiver of the 30-day appeal period following review and qualification of the member's domestic relations order, using a form approved by the system.

~~q.~~ r. If a member with an IPERS-approved QDRO is receiving a distribution according to a qualified benefits arrangement (QBA), the alternate payee shall share in the distribution to the member unless the order specifically states otherwise.

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